

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RASMEE A. COMER,	§	
	§	No. 176, 2011
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0006000054
Appellee.	§	

Submitted: April 28, 2011

Decided: May 3, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

ORDER

This 3rd day of May 2011, it appears to the Court that:

(1) On April 11, 2011, the Court received an untimely notice of appeal from, the appellant, Rasmee A. Comer. Comer is attempting to appeal the Superior Court's March 2, 2011 judgment of violation of probation (VOP) and sentencing. Pursuant to Supreme Court Rule 6, Comer's notice of appeal should have been filed within thirty days of sentencing, *i.e.*, on or before April 1, 2011.¹

(2) On April 12, 2011, the Clerk issued a notice directing that Comer show cause why the appeal should not be dismissed as untimely

¹ Del. Supr. Ct. R. 6(a)(ii).

filed.² Unless an appellant can demonstrate that the failure to timely file a notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.³

(3) In response to the notice, Comer contends that his notice of appeal is timely because it was filed “within 30 business days” of his VOP conviction and sentencing. Comer also states that he did not have “ample access to a law library.”

(4) Comer’s contentions are unavailing. “Time is a jurisdictional requirement.”⁴ Under Delaware law, a notice of appeal must be received by the office of the Clerk within the thirty-day time period to be effective.⁵ Intermediate Saturdays, Sundays and other legal holidays are included in the computation unless the last day of the appeal period is a Saturday, Sunday or other legal holiday, in which event the period runs until the end of the next day on which the office of the Clerk is open.⁶

(5) Comer does not contend, and the record does not reflect, that his failure to timely file the notice of appeal is attributable to court-related

² Del. Supr. Ct. R. 29(b).

³ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁴ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

⁵ Del. Supr. Ct. R. 10(a).

⁶ Del. Supr. Ct. R. 11(a).

personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland

Justice